

REMARKS

This Amendment responds to the Office Action mailed September 10, 2007, in the above-identified application. Based on the foregoing Amendments and the following comments, reconsideration and allowance of the application are respectfully requested.

Claims 7-11, 13-14, 22-24, 26, 27, 35-39, 41 and 47-52 were previously pending in the application. By this Amendment, claims 22, 35, 37 and 38 have been amended. Claims 47-52 have been canceled without prejudice or disclaimer. Accordingly, claims 7-11, 13-14, 22-24, 26, 27, 35-39 and 41 are currently pending, with claims 7, 22 and 35 being independent claims. No new matter has been added.

The Examiner has rejected claims 22-24, 26-27, 35-39, 41 and 47-52 under 35 U.S.C. §112, 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Regarding claims 22, 35 and 47, the Examiner asserts that the specification only discloses a memory including computer readable instructions or program modules, not a receiver module or a protocol determination module, being executed by a processing unit to enable a device or system to perform particular acts. The rejection is respectfully traversed in view of the amended claims.

Amended claim 22 is directed to a tangible computer readable medium encoded with computer-readable instructions for performing acts for determining an appropriate channel for a wireless device in a wireless network. The acts correspond to those recited in allowed method claim 7. The specification states, that “[c]omputer storage media includes volatile and nonvolatile, removable and non-removable media implemented in any method or technology for storage of information such as computer readable instructions, data structures, program modules or other data” (paragraph 0020, page 7). Thus, the specification discloses computer readable media for storing computer readable instructions as defined by amended claim 22. It is submitted that amended claim 22 is in compliance with 35 U.S.C. §112, 2nd paragraph.

Amended claim 35 is directed to a computer system comprising a processor and a memory. The memory includes one or more program modules, including at least a first program

module and a second program module. The specification states that “the invention will be described in the general context of computer-executable instructions, such as program modules, being executed by a personal computer. Generally, program modules include routines, programs, objects, components, data structures, etc. that perform particular tasks or implement particular abstract data types” (paragraph 0018, pages 5-6). The specification further states that “[t]he invention may be implemented in a system employing various types of machines, . . . using instructions, such as program modules, that are executed by a processor” (paragraph 0019, page 6). In addition, the specification teaches that “[i]n its most basic configuration, the computing device 100 includes at least a processing unit 102 and a memory 104” (paragraph 0020, page 6). Thus, the specification discloses a computer system as defined by amended claim 35. It is submitted that amended claim 35 is in compliance with 35 U.S.C. §112, 2nd paragraph. For at least these reasons, withdrawal of the rejection under 35 U.S.C. §112, 2nd paragraph, is respectfully requested.

Based upon the above discussion, claims 7-11, 13-14, 22-24, 26, 27, 35-39 and 41 are in condition for allowance.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

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